

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**HILTON I. HALE & ASSOCIATES,  
LLC,**

**Plaintiff,**

**V.**

**KEN GAEBLER, INDIVIDUALLY  
AND D/B/A GAEBLER VENTURES,**

## Defendants.

**Case No. 2:10-CV-920**

**JUDGE ALGENON L. MARBLEY**  
**Magistrate Judge Abel**

## ORDER AND OPINION

## I. INTRODUCTION

This matter is currently before the Court on Defendants Ken Gaebler and Gaebler Ventures’ (collectively, the “Defendants”) Motion to Dismiss. (Doc. 12-1). The Defendants move to dismiss Plaintiff Hilton I. Hale & Associates, LLC’s Complaint. (Doc. 2). For the reasons set forth below, the Defendants’ Motion to Dismiss is **GRANTED**.

## II. BACKGROUND

The Plaintiff alleges that the Defendants published information on the website <http://www.gaebler.com> that detailed the terms and conditions of a Small Business Administration loan the Plaintiff received. The Plaintiff claims that the release of this information placed its business in a false light. (Doc. 2, p. 5). On July 26, 2010, the Plaintiff requested that the Defendants remove the information from the website and pay \$100,000 within thirty days to compensate for the injury the information disclosure caused. (Doc. 2, p. 4). The Defendants have since removed the information from the website, but they have not responded to

the Plaintiff's demand for compensation. *Id.* In its Complaint filed on October 13, 2010, the Plaintiff brings claims for invasion of privacy, business endangerment, personal endangerment, and emotional distress and mental anguish and seeks compensation from the Defendant for these alleged injuries. (Doc. 2, p. 7). On December 3, 2010 the Defendants filed this Motion to Dismiss. (Doc. 12). On December 16, 2010, the Plaintiff filed a Response to the Motion. (Doc. 13). This matter is currently before the Court.

### **III. LAW AND ANALYSIS**

In their Motion to Dismiss, the Defendants assert that as a threshold issue, the Plaintiff, a limited liability corporation, cannot appear before the Court *pro se*. (Doc. 12-1, p.3). In the Response to the Defendants' motion, Hilton Hale, who claims to be the sole member of Hilton I. Hale & Associates, LLC, argues that he should be entitled to proceed *pro se*.

A corporation, however, cannot appear in federal court except through an attorney. *Rowland v. California Men's Colony*, 506 U.S. 194, 201-202 (1993); *Miller, et al. v. Fin. Recovery Center, Inc.*, 2010 U.S. Dist. LEXIS 95076, at \*1 (S.D. Ohio August 26, 2010) (*citing Doherty v. American Motors Corp.*, 728 F.2d 334, 340 (6<sup>th</sup> Cir. 1984)). Courts have recognized that the rationale for that rule applies equally to all artificial entities. 506 U.S. at 202. Except for a few aberrant cases, courts have held that corporations, partnerships, and associations are all artificial entities and must appear in federal court through a licensed attorney. *Id.* This Court, therefore, finds that a limited liability corporation is another example of an artificial entity that should retain legal counsel before appearing in federal court. Thus, Hilton I. Hale & Associates, LLC, the named plaintiff to this action, must have an attorney to proceed with its complaint. Furthermore, it is insufficient that the person attempting to represent a corporation is an officer

of the corporation. *Miller, et al. v. Fin. Recovery Center, Inc.*, 2010 U.S. Dist. LEXIS 95076, at \*1 (S.D. Ohio August 26, 2010) (*citing Reich v. Pierce*, 45 F.3d 431, n.1 (6<sup>th</sup> Cir. 1994)). Hilton Hale, therefore, even if he is the sole member of Hilton I. Hale & Associates, LLC, is also barred from appearing *pro se* before this Court as a representative of Hilton I. Hale & Associates, LLC .

#### **IV. CONCLUSION**

For the aforementioned reasons, the Defendants' Motion to Dismiss is **GRANTED**, and the Plaintiff is instructed to file this complaint again after retaining legal counsel.

**IT IS SO ORDERED.**

s/Algenon L. Marbley  
**ALGENON L. MARBLEY**  
**UNITED STATES DISTRICT COURT**

**Dated: January 28, 2011**